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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/699,098	10/27/2000	Frederick S. M. Herz	0635MH-40874	7141
7590	11/17/2004		EXAMINER	
Melvin A Hunn Hill & Hunn LLP 201 Main Street Suite 1440 Fort Worth, TX 76102			MAHMOUDI, HASSAN	
			ART UNIT	PAPER NUMBER
			2165	
			DATE MAILED: 11/17/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/699,098	HERZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tony Mahmoudi	2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 12 October 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

~~3-12~~  
 ✓ 4) Claim(s) 4-12 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 3-11 is/are allowed.  
 ✓ 6) Claim(s) 4-12 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**SAM RIMELL**  
**PRIMARY EXAMINER**

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's Request for Continued Examination (RCE) submission filed on 27-August-2004 has been entered. In addition, the "Supplemental Preliminary Amendment" filed on 12-October-2004 has been entered for the continued examination of this application.

### ***Remarks***

2. In response to communications filed on 12-October-2004, new claims 4-12 are added per applicant's request. Therefore, claims 3-12 is presently pending in the application.

### ***Specification***

3. The specification is objected to because the arrangement of the disclosed application does not conform with 37 CFR 1.77(b).

Section heading appear **boldfaced** throughout the disclosed specification. Section headings should not be **boldfaced**. Appropriate corrections are required according to the guidelines provided below:

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (e) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (f) BRIEF SUMMARY OF THE INVENTION.
- (g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (h) DETAILED DESCRIPTION OF THE INVENTION.
- (i) CLAIM OR CLAIMS (commencing on a separate sheet).
- (j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 3-12 are rejected under 35 U.S.C. 102(e) as being anticipated by Bowman-Amuah (U.S. Patent No. 6,697,824 B1.)

As to claim 3, Bowman-Amuah teaches a method of allowing access to data over a distributed data processing system (see Abstract, and see column 22, lines 63-67), comprising:

- (a) providing an automated infrastructure for the exchange of information between multiple self-interested parties (see column 25, lines 6-11, and see column 26, lines 12-29);
- (b) providing a trusted server (see column 72, lines 44-64) with at least one data warehouse for the storage of the information (see column 74, lines 18-30);
- (c) associating a price rule with particular data records of the information which establishes a cost of accessing the particular data records, and which controls the access to

that data (see column 27, lines 22-53, see column 61, line 28 through column 62, line 5, and see column 78, line 56 through column 79, line 25);

(d) wherein the price rule enables a data owner associated with the data to specify a different price for different types and amounts of information access (see column 61, line 28 through column 62, line 5);

(e) within the trusted server, providing a data processing platform which is accessible to multiple third-party data processing software programs which operate as software agents (see column 42, line 65 through column 43, line 4, and see column 47, line 12 through column 48, line 9);

(f) wherein a plurality of seller-side software agents have defined relationships to the price rules and associated data records, and maintain absolute access control to the data records (see column 26, lines 30-40, see column 31, lines 17-23, and see column 34, lines 6-22);

(g) wherein a plurality of buyer-side software agents have regulated query access to the data processing platform and may request pricing information from the seller-side software agents (see column 36, lines 7-46, and see column 52, lines 22-45);

(h) wherein the plurality of seller-side software agents and the plurality of buyer-side software agents operate as persistent data processing systems which interact with one another repeatedly over time and which thus define a virtual marketplace (see column 26, lines 42-56, see column 28, line 65 through column 29, line 11, and see column 38, lines 58-67.)

As to claim 4, Bowman-Amuah teaches wherein the trusted server is accessed via a network (see column 72, lines 45-64.)

As to claim 5, Bowman-Amuah teaches wherein the network is a wireless network (see column 20, line 62 through column 21, line 9.)

As to claim 6, Bowman-Amuah teaches wherein the network is a cellular network (see column 20, line 62 through column 21, line 9.)

As to claim 7, Bowman-Amuah teaches wherein the network is the Internet (see figure 33, and see column 74, lines 19-30.)

As to claim 8, Bowman-Amuah teaches wherein the software agents are associated with at least one individual (see column 28, line 53 through column 29, line 11.)

As to claim 9, Bowman-Amuah teaches wherein the software agents are associated with at least one company (see column 26, lines 31-40.)

As to claim 10, Bowman-Amuah teaches wherein the cost of accessing the particular data records is the price that the buyer-side software agents must pay before accessing the particular data records (see column 79, lines 11-16.)

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As to claim 11, Bowman-Amuah teaches wherein the information access is encrypted through the use of a security certificate (see column 45, lines 15-25, see column 62, lines 14-17, and see column 81, line 37 through column 82, line 39.)

As to claim 12, Bowman-Amuah teaches wherein the security certificate is managed by a public key infrastructure (see column 71, lines 1-37.)

***Response to Arguments***

7. Applicant's arguments filed on 12-October-2004-2004 with respect to the rejected claim in view of the cited references have been fully considered but they are moot in view of the new grounds for rejection.

***Conclusion***

8. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Tony Mahmoudi whose telephone number is (571) 272-4078. The examiner can normally be reached on Mondays-Fridays from 08:00 am to 04:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici, can be reached at (571) 272-4083.



SAM RIMELL  
PRIMARY EXAMINER

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November 2, 2004